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February 27, 2018

**VIA ECF**

The Honorable Judge Louis L. Stanton  
United States Courthouse  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312

**Re: Moreton Binn and Marisol F, LLC v. Form Holdings Corp. et al., No. 17-cv-8594**

Dear Judge Stanton:

I write on behalf of Defendants Bruce T. Bernstein, Richard K. Abbe, Andrew D. Perlman, Salvatore Giardina, Andrew R. Heyer, Donald E. Stout, John Engelman, and Form Holdings, Corp. (collectively, “Defendants”) in the above-referenced matter.

On January 16, 2018, the Court granted Defendants’ request to file one exhibit – a confidential LLC Operating Agreement of XpresSpa Holdings, LLC (“Operating Agreement”) – and references to its specific terms in Defendants’ Motion to Dismiss briefing under seal. Dkt. No. 36. On February 7, 2018, Plaintiffs filed an Amended Complaint and, pursuant to this Court’s order [Dkt. No. 47], Defendants’ deadline to file a motion to dismiss the Amended Complaint is tomorrow, February 28, 2018. Defendants respectfully request permission to again file that single exhibit – the Operating Agreement – and references to its specific terms in the briefing under seal. Public versions with redactions would also be filed.

Certain causes of action in this case relate to the merger between XpresSpa and Form Holdings, Corp., directly implicating the operations of XpresSpa under its Operating Agreement. The Operating Agreement contains a confidentiality clause, under which any disclosure of the Agreement must remain confidential. The parties intend to negotiate a Proposed Protective Order; but in the interim, Defendants respectfully request the Court’s permission to again seal the Operating Agreement and portions of the briefing discussing or directly citing to the Operating Agreement. Any redactions to the briefing will be narrowly tailored to specific references to confidential information.

Should the Court grant this request, unredacted courtesy copies of the briefing (and the attachments thereto) will be delivered to the Court and to opposing counsel. Redacted versions of the briefing and any exhibits which may be filed under seal will be filed on the public record on February 28, 2018.

We have consulted with Plaintiffs’ counsel and Plaintiffs do not object to this request.

**Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.**

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Thank you for your attention to this matter.

Respectfully submitted,

*/s/ Francis J. Earley*

Francis J. Earley

CC: Counsel of Record